

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 98-104

IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER
OF
CITY OF BLYTHE
ISSUED TO THE CITY OF BLYTHE
FOR DISCHARGE OF RAW SEWAGE INTO THE EAST SIDE DRAIN
A TRIBUTARY OF THE COLORADO RIVER
Blythe - Riverside County

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The City of Blythe (hereinafter also referred to as the discharger) is alleged to have violated regulations and laws, for which the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Board) may impose civil liability pursuant to Section 13385 of the California Water Code (CWC).
2. Unless waived, a public hearing on this matter will be held before the Regional Board, within sixty (60) days of the issuance of this complaint. The discharger, or a representative of the discharger, will have the opportunity to be heard, to challenge the allegations in this complaint, and to contest the imposition of the civil liability. An agenda indicating the scheduled date, time and location of the hearing will be mailed to you at least (10) days prior to the hearing date.
3. The discharger owns and operates a sewage collection system and a wastewater treatment plant (WWTP) serving the City of Blythe. The WWTP is designed to treat 3,600,000 gallons-per-day (GPD) of wastewater. Current flow is approximately 1,500,000 GPD. On May 17, 1994, the Regional Board adopted revised waste discharge requirements (Board Order No. 94-039), for the City of Blythe's wastewater collection, treatment and disposal system. Board Order 94-039 permits the City of Blythe to discharge treated wastewater to evaporation/percolation basins.

ALLEGATIONS

4. Raw sewage has significant odor/nuisance potential and contains pathogens (e.g., fecal bacteria) at concentrations that pose a public health hazard when it is not properly treated and disposed of.
5. Untreated sewage discharged into surface waters may accumulate on the banks of the water body. A large amount of solids may settle at the bottom to form sludge deposits or float to the surface and develop rafts of scum. Sludge deposits and scum are unsightly and contain organic material, which may cause oxygen depletion and may be a source of odor. Untreated sewage contains pathogenic organisms which can cause communicable diseases, and may contain elevated concentrations of toxic constituents. Discharge of material amounts of untreated sewage will adversely impact the quality of the discharge waters and affect its beneficial uses.
6. Pursuant to CWC Section 13373, the terms "navigable waters" and "pollutants" have the same meaning as in the Federal Water Pollution Control Act (FWPCA).

"Pollutant" as defined in FWPCA Section 502(6) includes "...sewage...discharged into water".

"Navigable waters" as defined in FWPCA Section 520(7) means "...waters of the United States, including territorial seas."

7. The Colorado River is a navigable water and therefore a water of the United States.
8. The discharger is alleged to have violated CWC Section 13376, which states, in part, that:

“Any person discharging pollutants...to the navigable waters of the United States within the jurisdiction of the state...shall file a report of waste discharge...”

“...The discharge of pollutants...by any person except as authorized by waste discharge requirements or permit is prohibited...”
9. The discharger did not file a Report of Waste Discharge nor obtain waste discharge requirements for the discharge of raw sewage, a pollutant, into the Colorado River, a navigable water of the United States.
10. In a letter dated September 16, 1998, the discharger reported the following information to Regional Board staff, which is the basis for the alleged violations:
 - a. On September 14, 1998, there was an unauthorized release of raw sewage into the storm drain system in Blythe, California. The discharge occurred at the intersection of I-10 and Intake Boulevard, approximately 100 yards south of I-10, and on the east side of Intake Boulevard.
 - b. At approximately 2:45 p.m. on September 14, 1998, the City received a report that a pick hole on a manhole located on Intake Boulevard was oozing sewage, which was flowing to the storm drain located 50 feet east of the manhole. The lift station at that location is a forced main system that had malfunctioned due to leaky seals in the dry well, causing an electrical short to the equipment.
 - c. In an effort to keep the sewage off the street, public works employees pumped the sewage to a storm drain for about 75 minutes. The discharge was estimated at 15,000 gallons.
 - d. Upon arrival at the site, the Assistant Public Works Director ordered cessation of the discharge to the storm drain, and requested the dispatch of a sewer vac truck to the site. The vac truck was used for transporting the sewage to the wastewater treatment plant.
 - e. The storm drain was then flushed with two (2) gallons of household bleach and around sixty thousand (60,000) gallons of water from a fire hydrant. The storm drain discharges to the Palo Verde Irrigation District's East Side Drain, located approximately 0.5 mile east of the spill site. The East Side Drain flows for about 20 miles prior to discharging to the Colorado River.
 - f. Current Standard Operating Procedures require the City to use the sewer vac truck to clean and pump manholes.
11. The discharged sewage was not susceptible to cleanup. The sewage after flowing through the storm drain, and the East Side Drain, flowed to the Colorado River.
12. Based on information contained in Item No. 10 above the discharger used 60,000 gallons of water from the fire hydrant in the cleanup operation. The discharged mixture contained bleach, dirt and the remains of the spilled sewage.
13. The Water Quality Control Plan for the Colorado River Basin Region of California was adopted November 17, 1993 and designates the beneficial uses of ground and surface waters in this Region.

14. The beneficial uses of waters in the Palo Verde Valley Drains are:

- a. Water Contact Recreation¹ (REC I)
- b. Non-Contact Water Recreation² (REC II)
- c. Warm Freshwater Habitat (WARM)
- d. Wildlife Habitat (WILD)

15. The beneficial uses of the waters in the Colorado River and associated lakes and reservoirs are:

- a. Municipal and Domestic Supply (MUN)
- b. Agricultural Supply (AGR)
- c. Aquaculture (AQ)
- d. Industrial Service Supply (IND)
- e. Ground Water Recharge (GWR)
- f. Water Contact Recreation (REC I)
- g. Non-Contact Water Recreation (REC II)
- h. Warm Water Habitat (WARM)
- i. Cold Water Habitat (COLD)
- j. Wildlife Habitat (WILD)
- k. Hydropower General (POW)
- l. Preservation of Rare, Endangered or Rare Species (RARE)

16. Issuance of this ACL Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a), Title 14, California Administrative Code.

PROPOSED CIVIL LIABILITY

17. Pursuant to CWC Section 13385(a)(1), any person who violates CWC Section 13376 may be liable civilly in accordance with CWC Section 13385(c).

18. CWC Section 13385(c)(1) authorizes Administrative Civil Liability not exceeding ten thousand dollars (\$10,000) for each day in which violation of CWC Section 13376 occurs. The discharger has indicated that the spill lasted no more than one day. Based on this, the maximum liability for this period is ten thousand dollars (\$10,000) for violation of CWC Section 13376 for a period of one day.

19. CWC Section 13385(c)(2) authorizes an additional Civil Liability not exceeding ten dollars (\$10) per gallon where there is a discharge, any portion of which is not susceptible to cleanup and/or the volume discharged but not cleaned up exceeds one thousand (1,000) gallons. The discharger has indicated that approximately fifteen thousand (15,000) gallons of sewage, sixty thousand (60,000) gallons of fire hydrant water and two (2) gallons of bleach, for a total volume of seventy-five thousand and two (75,002) gallons, were discharged to the East Side Drain on September 14, 1998. The maximum allowable liability for this discharge is seven hundred four thousand and twenty dollars (\$740,020).

20. The maximum civil liability available which could be imposed by the Regional Board for this specific case is seven hundred fifty thousand and twenty dollars (\$750,020).

21. Staff costs to date associated with the investigation and preparation of this enforcement action total two thousand six hundred and eighty-eight dollars.

¹ The only REC I usage known to occur is from fishing activity

² Unauthorized use

22. On October 5, 1998, the Regional Board's Executive Officer issued ACL Complaint No. 98-099 against the discharger for alleged violations.
23. In a letter dated October 13, 1998, the discharger proposed the implementation of the following actions, as settlement for ACL Complaint 98-099:
 - a. By October 8, 1998, rebuild pumps and replace seals on sewer Lift Station No. 11. The estimated cost for this project is three thousand five hundred dollars (\$3,500).
 - b. Immediately, purchase two standby pumps, one electric and the other, engine-driven. The estimated cost for this project is twenty thousand five hundred dollars (\$20,500).
 - c. By December 31, 1999, establish written operation and maintenance procedures for the collection system. The estimated cost for this project is five thousand dollars (\$5,000).
 - d. By January 1, 1999, implement an ongoing operator training program with an annual budget of five thousand dollars (\$5,000).
 - e. By January 31, 1999, install a bypass line on sewer Lift Station No. 11. The estimated cost for the bypass line is six thousand five hundred dollars (\$6,500).
 - f. By March 31, 1999, install visual and audio alarms on all lift stations. The estimated cost of this project is three thousand five hundred dollars (\$3,500).
 - g. By December 31, 2000, install standby power receptacles on all sewer lifts. The estimated cost for this project is twenty five thousand dollars (\$25,000).
 - h. By December 31, 2001, install remote alarms (autodialers) on all sewer lifts. The estimated cost for this project is nineteen thousand five hundred dollars (\$19,500).
 - i. Contribute seven thousand dollars (\$7,000) to the Colorado River Regional Sewer Coalition and pay three thousand dollars (\$3,000) to the State Water Resources Control Board Cleanup and Abatement Account.
24. It should be noted that some of the effort proposed by the discharger in Item No. 23, above, could be required under a routine enforcement order addressing noncompliance. However, a significant portion of the proposed work qualifies as supplemental environmental projects.
25. Based upon the settlement proposed by the City of Blythe in the letter dated October 13, 1998, the Executive Officer of the Regional Board rescinds Administrative Civil Liability Complaint 98-099.
26. The California Water Code Section 13385(e) states that:

“In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefits or savings, if any resulting from the violation, and other matters that justice may require.”

27. Based on factors in California Water Code Section 13385(e), the Executive Officer of the Regional Board proposes that an Administrative Civil Liability be imposed by the Regional Board in the amount of \$25,000.
28. The discharger has requested \$15,000 of the above amount be suspended and that an amount greater than the amount suspended be dedicated to supplemental environmental projects in a letter dated October 13, 1998 and recited in item 23 of this Complaint.
29. In addition, the discharger has proposed to contribute \$7,000 to the Colorado River Regional Sewer Coalition as a supplemental environmental project and shall pay \$3,000 to the State Water Resources Control Board's Cleanup and Abatement Account to satisfy the remaining portion of the proposed administrative civil liability. Proof of payment to the Colorado River Regional Sewer Fund and payment to the Cleanup and Abatement Account must be submitted to this Board by December 15, 1998.

WAIVER OF LIABILITY

30. A hearing will be scheduled unless the discharger agrees to waive the hearing and pay the imposed civil liability in full.
31. If the hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
32. In lieu of a hearing, the discharger may waive the right of hearing. Any waiver will not be effective for 30 days from the date of this Complaint to allow other interested persons to comment on this action. If you wish to waive the hearing, please check and sign the waiver and return it with the amount of civil liability proposed in Item 29, made out to the State Water Resources Control Board, to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Executive Officer

Date